

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BATNEFT COMPANY,

Plaintiff,

-against-

COMMERJA-X CORPORATION, LINDON
BRENSLEY JAMES, and JP MORGAN
CHASE, NA,

Defendants.

25-cv-2080 (AS)

ORDER

ARUN SUBRAMANIAN, United States District Judge:

Defendant JP Morgan Chase removed this case from the Supreme Court of the State of New York, New York County on March 13, 2025. Dkt. 1 at 1. The basis for removal is diversity of citizenship. Dkt. 1 at 5. At the time of removal, no defendant had been properly served. *See* Dkt. 1 at 2.

Removal is improper. As the notice of removal indicates, two of the defendants in this suit are citizens of New York. *See* Dkt. 1 at 6. An action can be removed based on diversity jurisdiction only if none of “the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441. That defendants haven’t yet been properly served doesn’t change the outcome. *See Pullman Co. v. Jenkins*, 305 U.S. 534, 541 (1939) (“[T]he fact that the resident defendant has not been served with process does not justify removal by the non-resident defendant.”); *Eicher v. Macquarie Infrastructure Mgmt. (USA) Inc.*, 2013 WL 4038601, at *3 (S.D.N.Y. Aug. 8, 2013) (“A defendant cannot properly remove an action against it by filing a notice of removal prior to service on any defendant where the complaint indicates that one of the defendants is a resident of the forum state.”).

The Clerk of Court is directed to remand this case to the Supreme Court of the State of New York, New York County.

SO ORDERED.

Dated: March 26, 2025

New York, New York



ARUN SUBRAMANIAN
United States District Judge